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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, SEPTEMBER 17, 1999

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUC970113

Ex parte: Investigation of the  
termination of local exchange for  
failure to pay for long distance  
services

APPLICATION OF

BELL ATLANTIC-VIRGINIA, INC.

CASE NO. PUC990138

To postpone implementation of rule

ORDER

The Commission entered its Final Order in Case No. PUC970113 on February 26, 1999, adopting new rules regarding the termination of local exchange service for failure to pay for long distance services ("Rules"). That Order was amended on reconsideration by Order dated May 10, 1999, and is now on appeal to the Virginia Supreme Court.

Most significantly, the Rules reverse our previously existing policy with regard to local service disconnection for non-payment ("DNP") of charges not related to the provision of local service. Previously, we allowed DNP for non-payment of certain other charges appearing on the customer's bill, primarily charges imposed by certificated interexchange carriers

for long distance service. We have concluded such policy is no longer in the public interest for reasons set out elsewhere.

On August 6, 1999, Bell Atlantic-Virginia, Inc. ("BA-VA") filed its Application seeking permission to allow it to postpone implementation of the Rules. That matter was docketed as Case No. PUC990138. On August 25, 1999, Cox Virginia Telcom, Inc. ("Cox"), filed comments in that docket requesting postponement of the Rules for all companies.

On September 1, 1999, GTE South Incorporated ("GTE") filed its Petition for Clarification and for Waiver of Implementation Deadline, designated by GTE as "Confidential and Proprietary," in Case No. PUC970113 ("Petition"). Jurisdiction over Case No. PUC970113 has passed from the Commission to the Virginia Supreme Court, as noted, with limited exceptions not pertinent here.

GTE's Petition seeks a waiver of the date for it to implement the DNP rules. Additionally, GTE seeks clarification of statements by the Commission Staff in a letter sent to each local exchange company reminding them of the upcoming date for implementation of the rules.

GTE has advised that it can, under one interpretation of the Rules, alter its billing system to be fully compliant by October 13, 1999. However, if the Rules are interpreted in another manner, GTE says it will require until July 2000 to

finish the alteration of its billing system in order to make it comply fully with the Rules.

The Commission will deem GTE's Petition to have been filed in Case No. PUC990138 and will direct our Clerk to transfer the Petition from the file for Case No. PUC970113, which is on appeal, to the file for Case No. PUC990138. Additionally, the Clerk will keep the Petition sealed from public inspection until further orders of the Commission.

NOW THE COMMISSION, upon consideration of BA-VA's Application, and upon consideration of GTE's Petition and the comments filed by Cox, is of the opinion and finds that GTE has demonstrated good cause and should be granted a limited waiver of compliance with the Rules as set out below. With the filing of proper requests, BA-VA, Cox, and other carriers may propose similar relief. However, we will not delay the implementation of the Rules beyond the date established for all carriers' compliance, October 1, 1999. We expect each local exchange carrier subject to the Rules to exert its best efforts for timely compliance with the spirit of the Rules and, as we have said, will consider and grant requests for waiver of compliance with the letter of the Rules when and if good cause can be demonstrated.

The crux of the cases put forward by BA-VA, GTE, and Cox for delaying implementation of the Rules is that the companies

are at work revising their billing systems and that their internal corporate timetables for completion of these revisions do not correspond to the date we have established for compliance with the Rules. We appreciate the companies' concerns that they not be required to amend long-standing, complicated, and technical business plans or be required to invest significant funds to modify existing billing systems that will soon be replaced to address changes in the Rules we have ordered and which they did not anticipate.

In considering the waivers requested herein, we will endeavor to accommodate those concerns, but we continue to endorse the fundamental policy changes we have found to be in the public interest. For good cause shown, we will allow companies to comply with the Rules limiting disconnection for non-payment in a different manner while they are accomplishing their billing systems' revisions. Nevertheless, we will not reverse the basic policy decision we have made herein. We will not continue to permit DNP of charges unrelated to the provision of basic local exchange service.

GTE has advised that it can be in substantial compliance with the Rules by October 13, 1999, if it is permitted to implement what it calls a "three bucket" system. GTE says that it believed it would be in compliance with the Rules so long as its billing system prevented disconnection of service "due to a

customer's failure to pay those direct charges for Toll or Non-regulated Services rendered after the date the new system is implemented." GTE expressed its surprise at the "interpretation" of the Rules rendered by the Staff in its letter to carriers of August 17, 1999, in which the Staff advises that DNP will not be allowed for non-payment of taxes and assorted fees not found in the carriers' tariffs. GTE requested the Commission "clarify" the Rules consistent with GTE's interpretation that would permit DNP of these items.

We do not believe clarification to be necessary, and we agree with the Staff's assessment of the Rules. Disconnection of service will not be allowed for non-payment of any item other than tariffed, non-competitive service offerings of the local exchange carrier. In many instances, carriers have no fiscal interest in the collection of taxes and other fees that now festoon their bills. Section 58.1-3812 F of the Code of Virginia, for instance, requires that collections of local taxes by a telephone service provider "be held in trust by the service provider until remitted to the county, city or town." Non-payment of this tax constitutes "a debt of the consumer to the county, city or town." Such tax is not a debt of the telephone company nor is it owed to the telephone company.

The "three bucket system," together with the service termination notice threshold limitation proposed by GTE,

however, strikes us as substantially complying with the intent of the DNP rules; and we will grant a waiver to allow GTE to implement it on an interim basis, along with the threshold limitations proposed by the company on issuance of late notices and subsequent termination. GTE assures that under its plan no disconnections will occur unless a customer withholds payment of taxes and associated fees "for a number of months." We expect GTE to be in full compliance as soon as possible, and in no event later than July 2000. We further expect GTE to take any appropriate action during the next "number of months" so that inadvertent terminations in violation of the DNP rules will be avoided. We will waive the implementation date of the Rules for GTE until October 13, 1999.

Accordingly, IT IS ORDERED THAT:

(1) The Clerk of the Commission shall transfer the Petition of GTE South Incorporated, filed on September 1, 1999, in Case No. PUC970113, to the case file for Case No. PUC990138.

(2) The Application of Bell Atlantic-Virginia, Inc. is DENIED without prejudice to the company requesting a waiver by proposing an alternate plan of compliance similar to that of GTE or otherwise.

(3) GTE's Petition for Waiver of Implementation Deadline is GRANTED as set out herein.

(4) Cox and any other carrier may request waiver of implementation by filing same in Case No. PUC990138.

(5) This matter is continued for further orders of the Commission.

(6) The Clerk shall serve a copy of this Order on each certificated local exchange company in the Commonwealth.